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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,051

12/16/2004

Jean-Pierre Bonicel

Q-85367

3502

23373

7590

03/08/2006

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EXAMINER

STEIN, JAMES D

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H:A

Office Action Summary	Application No.	Applicant(s)	
	10/518,051	BONICEL ET AL.	
	Examiner	Art Unit	
	James D. Stein	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/16/04 (pre-amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 14-23 is/are rejected.
- 7) ☐ Claim(s) 24-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1204</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the preliminary amendment filed on 12/16/04. Claims 1-13 have been cancelled and new claims 14-31 have been added. Claims 14-31 are pending in the application.

Information Disclosure Statement

The references submitted in the IDS filed on 12/16/04 have been considered (note attached signed copy of form PTO-1449). The search report for the corresponding international application, PCT/FR03/01823 has been considered.

Drawings

Two (2) sheets of formal drawings filed on 12/16/04 have been accepted

Specification

Applicants cooperation is requested in correcting any errors in the specification of which applicant may become aware.

Claim Objections

Claim 15 is objected to because of the following informalities: There is a lack of antecedent basis for the recitation of "the said tubular machine". Appropriate correction is required.

Claim Rejections - 35 USC § 102 (SP)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 14, 16-17 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by [USPAT 5,448,670] to Blew et al. ("Blew"), which discloses a related machine and method for making an optical transmission cable.

With regard to claims 14 and 22, fig. 9 of Blew shows a machine for forming an optical transmission cable 20 (figs. 4 and 6) from at least one tube 31' inside of which a plurality of optical fibers 33' are arranged; strengthening elements comprising a central strengthening member 36 arranged at the center of the cable 20 and peripheral strengthening members 34', said at least one tube 31' being twisted about the central strengthening member 36 (at least col. 7 lines 39-41). The peripheral strengthening members 34' the at least one tube 31' are shown to have diameters sufficiently close to each. It is noted that said twisting of the cable will inherently result in the tubes 31' forming a substantially homogeneous inner peripheral layer around the central strengthening member 34', do to the radial symmetry of the cable 20 with respect to the components therein. In the same manner, the peripheral strengthening members 34' will form an outer peripheral layer around the central strengthening member 36

With regard to claims 16 and 17, in addition to the rejection of claim 14 discussed above, figs. 1 and 2 show the optical transmission cable 20 in both aerial and ground applications, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 18-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blew as applied above, and further in view of admitted prior art, [USPAT 6,389,787] to Greenwood et al. ("Greenwood"). Fig. 9 of Blew shows a machine 50 for making the optical fiber 20 wherein the central strengthening member 34 is unwound from a reel 53 towards the front of the machine 50 with respect to a plurality of reels (51 and 52), but prior to a guiding device 58 at the end of the machine 50. Therefore, the claimed invention has been disclosed and previously discussed except for the device to further comprise a grease tank and for the machine to be a "tubular" machine, specifically. Fig. 1 of Greenwood shows a related machine and method for making an optical cable, wherein a grease tank 42 is provided at the end of the machine 10 that applies a grease/filling compound about the components of the cable 46. It would have been obvious at the time of the invention to one of ordinary skill in the art to provide a grease tank 42 at the end of the machine as taught by Greenwood in order to fill the empty pockets within the cable, provide cushioning to the components of the cable, and also to lubricate the components of the cable so that they are not damaged from friction induced by outdoor environments.

It is noted that in making this combination, the reel 53 containing the strengthening member of Blew would inherently be located closest to the grease tank, as claimed by applicant. Furthermore, it would have been obvious at the time of the invention to one of ordinary skill of the art to provide a housing to the machine of Blew in order to prevent it from being damaged, as well as to protect operators thereof from being injured. Since the machine (fig. 9) of Blew is shown to extend longitudinally in the direction the fibers and strengthening members are drawn,

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said housing would naturally have a “tubular” shape with a constant diameter as claimed by applicant (tubular machine).

Allowable Subject Matter

Claims 24-31 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the cited prior art discloses or suggests the machine and method for making an optical cable previously claimed, wherein the inner and outer peripheral layers are made from two tubular machines; wherein the inner peripheral layer is made using a tubular machine and the outer peripheral layer is made using a planetary machine, said machines being arranged one after the other. Neither Blew nor Greenwood suggests this arrangement. Furthermore, it would not have been obvious to modify Blew or Greenwood to achieve this arrangement because the method of Blew achieves a robust optical cable.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: [USPAT 4,484,963] to Anctil et al., which discloses a related method of fabricating an optical cable.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

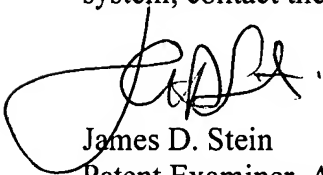
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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D. Stein whose telephone number is (571) 272-2132. The examiner can normally be reached on M-F (8:00am-4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James D. Stein
Patent Examiner, AU 2874



SUNG PAK
PRIMARY EXAMINER